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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,362	12/05/2000	Itzhak Shoher	SHO-2000-4	3707

7590 11/24/2003

EUGENE LIEBERSTEIN
2151 LONG RIDGE ROAD
STAMFORD, CT 06903

EXAMINER

RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
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2175

DATE MAILED: 11/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/729,362

Applicant(s)

SHOHER, ITZHAK

Examiner

Sam Rimell

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____

- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

SAM RIMELL
PRIMARY EXAMINER

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Claims 1 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1: Lines 1-4 of claim 1 recite a keyboard processor and keyboard processing unit. Lines 5-6 include the phrase “a keyboard and/or a mouse”, which means that the keyboard is optional even though its internal structures are positively recited in line 1-4. The inclusion of the phrase “a keyboard and/or a mouse” renders the claim confusing, since it allows for the possibility of the invention having the internal components of a keyboard without the keyboard even being present. Claim 4 depends upon claim 1.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Howard ('374).

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Claim 1: Reference is made to FIG. 2 of Howard. Illustrated are an optical keyboard and keyboard processing unit (22). Since the optical keyboard can generate the letters on a standard keyboard (col. 3, line 56), it is apparent that the keyboard processing unit (22) can encode and decode ASC II data. The letters on a standard keyboard and their digital representations are both ASC II data. The optical keyboard is connected to input output terminals (30) and (35) and an RF modulator (32,33) and transmitter (34). An analog to digital converter converts the data from the optical keyboard to a wireless telephone communication device (33, 34, 36, 37, 38). The wireless communications device communicates with a modem (59) located at the base station. The modem (59) in turn permits communication over the public switched telephone network to transmit data to remote systems (col. 11, lines 1-8). While the modem (59) is not directly shown as transmitting data to a remote computer, this feature is considered to be inherent, as it is the express purpose of a modem to perform this function. A video monitor (14) displays communications data to the user of the keyboard.

Claim 4: The optical keyboard communicates with a remote computer which includes a modem (59) capable of external communication with the Internet.

Remarks

Applicant's arguments have been considered.

Applicant argues that: *"There is no intention in Howard to communicate with a video monitor through the portable device so as to permit accessing, transferring and/or creating information from and to a remotely located computer while simultaneously displaying such information on the video monitor"*.

Examiner maintains that these exact features are present in the Howard system. Within the system of Howard, the "wrist pendant optical keyboard" in FIG. 2 is portable and communicates with a "host system". As seen in Fig. 1, the "host system" is the computer terminal located directly in front of the user of the keyboard. The computer terminal includes a video monitor (14) that will display any information that the user is transmitting, receiving or creating, as would necessarily occur on a conventional computer.

Applicant also argues that: *"Moreover, no keyboard or mouse is shown or used in Howard to access, transfer or create information in the computer"*.

Examiner maintains that Howard discloses a keyboard. FIG. 2 explicitly recites a keyboard. Although optionally recited, the system is also shown as including a mouse in the lower right corner of FIG. 2.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.

A handwritten signature in black ink, appearing to read 'S. Rimell', is positioned above the printed name.

Sam Rimell
Primary Examiner
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